

**Letter of Findings: 01-20181583
Indiana Individual Income Tax
For The Tax Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual was responsible for additional Indiana income tax for the 2015 tax year because after a cross-reference examination with federal information, the federal information reflected that Individual had a higher adjusted gross income.

ISSUE

I. Indiana Individual Income Tax - Burden of Proof.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); Internal Revenue Service, *IRS Identity Theft Victim Assistance: How It Works*.

Taxpayer protests the Department's assessment of individual income tax for 2015.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who timely filed her 2015 Indiana Full-Year Resident Individual Income Tax Return (IT-40 Form) and received a tax refund in 2016.

In 2018, the Indiana Department of Revenue ("Department") cross-referenced information in its records with the federal information maintained by the Internal Revenue Service ("IRS"). The Department determined that, for the 2015 tax year, Taxpayer had approximately an additional \$17,000 in federal adjusted gross income than what was reported in her 2015 return, IT-40 Form. The Department concluded that Taxpayer owed additional Indiana and county income tax and, as a result, assessed Taxpayer additional income tax, penalty, and interest.

Taxpayer submitted supporting documents - including a copy of her 2015 "Tax Return Transcript" from the IRS to protest the Department's assessment. In addition, Taxpayer requested that the Department make the determination without an administrative hearing. Taxpayer further requested, and was granted, additional time to obtain the IRS Record of Account by January 31, 2019. After the extended due date, however, Taxpayer did not provide any additional supporting documentation or the IRS Record of Account to support her protest.

As a result, this Letter of Findings ensues and is based on the documents initially submitted and information within the Department's records. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Burden of Proof.

DISCUSSION

Pursuant to the cross-reference of the federal information, the Department determined that Taxpayer had an additional \$17,000 in federal adjusted gross income than what was reported on her 2015 return, IT-40EZ Form. As a result, the Department assessed Taxpayer additional income tax, penalty, and interest. Taxpayer disagreed, arguing that she was not responsible for the additional tax because she was a victim of the identity theft.

The issue thus is whether Taxpayer demonstrated that she correctly filed her Indiana return reporting her adjusted gross income subject to Indiana and local income tax.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting her challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). To efficiently and effectively compute what is considered the resident/taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, during the initial cross-reference examination, the Department found that Taxpayer had an additional \$17,000 in federal adjusted gross income than what was reported in her 2015 return, IT-40EZ Form. The Department thus adjusted Taxpayer's federal adjusted gross income to comport with the IRS record.

Taxpayer, to the contrary, asserted that she did not file her federal return because she did not earn sufficient amount to be required to file. Taxpayer explained that she was a victim of tax-related identity theft. Taxpayer further stated that her parent reported the crime and immediately subscribed to a "LifeLock" protection service.

Taxpayer was granted additional time until January 31, 2019, to provide additional supporting documentation and to obtain a verifiable copy of her Record of Account from the IRS to support her protest. More specifically, the IRS has been one of the government agencies which helps taxpayers who are tax-related identity theft victims. When taxpayers believe that they are victims of the tax-related identity theft crime, the IRS offers, in relevant part, as follows:

You tell us you may be a tax-related identity theft victim

Here's what happens if you learn you are a victim of tax-related identity theft. For example, your e-filed return rejects because of a duplicate tax filing with your Social Security number, and you report the incident to us:

- You should file by paper if you are unable to e-file
- You should complete and file Form 14039, Identity Theft Affidavit, with your paper tax return
- Your tax return and Form 14039 are received for processing by the IRS.
- You'll receive an acknowledgment letter
- Your case goes to our Identity Theft Victim Assistance (IDTVA) organization if another return is already present on the account, where it will be handled by employees with specialized training
 - The Identity Theft Victim Assistance organization will work your case by:
 - Assessing the scope of the issues and trying to determine if your case affects one or more tax years.
 - Addressing all the issues related to the fraudulent return. This includes determining if there are additional victims, who may be unknown to you, listed on the fraudulent return.
 - Researching the case to double check all the names, addresses and SSNs are accurate or fraudulent.
 - Conducting a case analysis to determine if all outstanding issues were addressed
 - Ensuring your tax return is properly processed and if you are due a refund, releasing your refund.
 - Removing the fraudulent return from your tax records.
 - Marking your tax account with an identity theft indicator, which completes our work on your case and helps protect you in the future.
- You will receive notification that your case has been resolved. This is generally within 120 days but complex cases may take 180 days or longer
- Certain tax-related identity theft victims will be placed into the Identity Protection PIN program and annually receive a new, six-digit IP PIN that must be entered on the tax return. The IP PIN adds an extra layer of identity protection. Some taxpayers will be given the option of getting an IP PIN, using the [IRS.gov/getanippin](https://www.irs.gov/getanippin) tool.

Internal Revenue Service, *IRS Identity Theft Victim Assistance: How It Works*, available at <https://www.irs.gov/individuals/how-irs-id-theft-victim-assistance-works> (last visited February 25, 2019). Taxpayer, however, failed to provide the requested supporting documentation by the agreed due date. Pursuant to IC § 6-8.1-5-1(c), the Department's assessment is presumed to be correct because Taxpayer failed to meet her burden of demonstrating that the assessment was wrong.

In short, given the totality of the circumstances, in the absence of the verifiable supporting document for 2015 to demonstrate otherwise, Taxpayer remains responsible for the additional income tax assessed.

FINDING

Taxpayer's protest is respectfully denied.

February 26, 2019

Posted: 04/24/2019 by Legislative Services Agency
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